

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

IN RE: **Michael John Turner**  
**Ada Turner**  
Debtor(s)

Case No. **10-12651**

Chapter 13 Proceeding

**DEBTOR(S)' CHAPTER 13 PLAN**      ☒ **AMENDED**  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

**Plan Summary**

- A. The Debtor's Plan Payment is scheduled at Variable Payments ☐ Pay Order, ☒ Direct Pay for 60 months. The gross amount to be paid into the plan is \$62,288.00.
- B. The Plan proposes to pay all allowed priority, special class and secured claims and approximately 30% of the unsecured allowed claims. THIS PLAN DOES NOT ALLOW CLAIMS. You must file a proof of claim to receive distributions under any plan. Other than adequate protection payments, disbursements will begin after entry of an order of confirmation of the plan.
- C. Value of non-exempt assets \$26,439.84.
- D. Current monthly income \$5,608.36, - expenses \$4,573.36 = available for Plan \$1,035.00.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan. IRS or Debtor(s) are directed to forward refund to the Trustee.

**Special Plan Provisions**

**Ratification of Security Agreements**

Except as otherwise provided herein, secured creditors' security agreements are ratified and remedies upon default may be exercised upon the granting of an order conditioning the stay.

**Authorization for Sale of Exempt Property**

Exempt property may be sold by the Debtor at any time after confirmation without further order of this Court. All valid liens, claims, or encumbrances shall attach the proceeds of such sale. Proceeds from the sale of exempt property may be paid directly to the Debtor.

**Debtor's Direct Communications With Creditors**

Creditors whose claims are scheduled to be paid directly by the debtor, including creditors with claims secured by real property and vehicles, are authorized to send monthly statements to the debtors.

Creditors whose claims are scheduled to be paid directly by the debtor are authorized to communicate directly with the debtor if the debtor has questions about their monthly payments, escrow accounts, account balances, increases in monthly payments, or other routine customer service inquiries.

**Attorneys Fee Disbursement**

To the extent funds are available for distribution the Attorney's fees will be paid in the following manner: \$1000.00 for the first disbursement following confirmation, and then \$250.00 per month thereafter.

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Continuation Sheet # 1

**Ratification of Interim Disbursements**

Interim disbursements made to secured creditors whose claims are secured by collateral being surrendered under this plan are hereby ratified. Interim disbursements constitute adequate protection payments required to be made under this plan and shall be credited against the secured claim. Absent further order of the court, secured creditors who have received interim disbursements from the Trustee shall not be required to refund the money received and the Trustee shall not be required to and is not authorized to make demand for reimbursement of interim disbursements made prior to confirmation.

**Plan Provisions****I. Vesting of Estate Property**

Upon confirmation of the plan, all property of the estate shall vest in the Debtor(s), and shall not remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

**II. Executory Contracts/Unexpired Leases/Contracts for Deed**

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts, if any:

Creditor Name	Description of Contract	Election	In Default
Fred Walker P.C.	Attorney Client Agreement	Assumed	No
H-H	Boat Storage	Assumed	No

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

Creditor Name	Description of Contract	Election	In Default
(None)			

**III. Specific Treatment for Payment of Allowed Claims****1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS; SURRENDER OF COLLATERAL**

A. Debtor shall pay the following creditors directly:

Creditor Name	Remarks	Debt Amount	Monthly Payment
H-H			\$95.00

B. Debtor shall surrender the following collateral:

Creditor Name / Collateral Surrendered	In Full Satisfaction (Yes/No)	Debt Amount
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Continuation Sheet # 2

**C. Creditor's Direct Communication With Debtors**

Creditors whose claims are scheduled to be paid directly by the debtor(s), including creditors with claims secured by real property or vehicles, are authorized to send monthly statements to the debtor(s). They are also authorized to communicate directly with the debtor(s) in response to a debtor's questions about monthly payments, escrow accounts, account balances, increases in monthly payments, and other routine customer service inquiries.

**2. PAYMENTS BY TRUSTEE****A. Administrative Expenses (including Attorney's fees)**

*The Trustee may receive up to 10% of all sums disbursed, except on any funds returned to the debtor.*

Creditor	Estimated Amount of Debt	Monthly Payment Amount
Fred E. Walker, P.C.	\$2,000.00	Month(s) 1-36      Pro-Rata

**B. Ongoing Mortgage Payments**

The Trustee shall pay all post-petition monthly mortgage payments on claims against real property that were delinquent on the petition date ("Ongoing Mortgage Payments"). The Ongoing Mortgage Payments will be in the amount stated in the allowed proof of claim or as fixed by Court order. If the debtor makes a Plan payment that is insufficient for the Trustee to disburse all Ongoing Mortgage Payments required below, such payments will be disbursed in the order listed below. The Trustee shall hold debtor payments until a sufficient amount is received to make a full Ongoing Mortgage Payment. The debtor shall provide to the Trustee all notices received from Mortgage Creditors including statements, payment coupons, impound and escrow notices, default notifications, and notices concerning changes of the interest rate on variable interest rate loans. The automatic stay is modified to permit Mortgage Creditors to issue such notices. Changes to the monthly Ongoing Mortgage Payment or the addition of post-petition mortgage fees and charges shall be effectuated pursuant to the *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division*.

Mortgage Creditor / Property Address	Monthly Mortgage Payment (proof of claim controls)	Monthly Late Charge	Interest Rate	Payment Due Date	Paid by Trustee OR Paid Direct by Debtor (select one)
American General Finance 170 Lost Cove Drive, Spicewood, TX 78669	\$1,709.00		10.72%		Direct

**C. Secured Claims - Mortgage Arrearage, Real Property**

The Plan will cure pre-petition arrearage claims pursuant to the payment schedule set forth below. The allowed arrearage claim will be the amount of the allowed proof of claim or as fixed by court order.

Creditor / Property Address / Description of Collateral	Estimated Claim	Mo. Pmt or Method of Disbursement	Interest Rate (if applicable)	Other Remarks
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Continuation Sheet # 3

**D. Secured Claims - Personal Property; Adequate Protection Payments; MOTIONS TO VALUE COLLATERAL**

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full amount of the claim, as specified below, plus interest thereon at the rate specified in this Plan. FAILURE OF THE SECURED CREDITOR TO OBJECT TO THE PROPOSED VALUE WILL BE DEEMED ACCEPTANCE OF THE PLAN UNDER SECTION 1325(a)(5)(A). Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section III(2)(F).

In the first disbursement following the filing of a claim by a creditor holding an allowed claim secured by personal property, the Trustee shall commence making adequate protection payments in the amount set out below, unless otherwise ordered by the Court. Such payments shall cease upon confirmation of the plan.

Creditor/Collateral	Adequate Protection Payment	Other Treatment/Remarks
Hsbc / Furniture Row Dresser, couch, two chairs	\$35.00	
Hsbc Best Buy Television, digital camera	\$12.50	
Security State Bank 2002 Dodge Ram Truck	\$32.92	
United Heritage Cu 2007 Dodge Ram Truck	\$234.38	

The Debtor moves to value collateral described below in the amounts indicated. The Debtor(s) declares, under penalty of perjury, that the foregoing values as stated in the above Motion and the Plan for the secured debt are true and correct and to the best of their knowledge represent the replacement value, pursuant to Section 506(a)(2), of the assets held for collateral.

**/s/ Michael John Turner**  
Michael John Turner, Debtor

**/s/ Ada Turner**  
Ada Turner, Joint Debtor

Objections to Valuation of collateral proposed by this plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. Following confirmation of the plan, monthly payments shall be made as follows:

Creditor / Collateral	Est. Claim	Value of Collateral	Monthly Payment	Interest Rate	Pay Value of Collateral (OR) Pay Full Amount of Claim (select one)
Hsbc / Furniture Row Dresser, couch, two chairs	\$7,303.00	\$3,500.00	Pro-Rata	5.25%	Pay Value of Collateral
Hsbc Best Buy Television, digital camera	\$2,272.09	\$1,250.00	Pro-Rata	5.25%	Pay Value of Collateral
Security State Bank 2002 Dodge Ram Truck	\$4,113.00	\$2,634.00	Pro-Rata	5.25%	Pay Value of Collateral
United Heritage Cu 2007 Dodge Ram Truck	\$26,551.76	\$18,750.00	Pro-Rata	5.25%	Pay Value of Collateral

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Continuation Sheet # 4

Secured creditors shall retain their liens on the collateral which is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law, or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

## E. Priority Creditors

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along With Secured Creditors	Remarks
Internal Revenue Service	\$3,327.50	Along With	

F. General Unsecured Creditors, [including claims from rejection of contracts, leases and contracts for deed]. Unless otherwise provided below, payments to creditors with allowed general unsecured claims shall be made on a pro rata basis as funds become available after payment of other creditors. It is estimated that distribution to the general unsecured creditors will commence in the 36th month of the Plan.

## G. Cure claims on Assumed Executory Contracts, Contracts for Deed &amp; Leases:

Creditor	Estimated Amount of Debt	Monthly Payment or Method of Disbursement	Remarks
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**Totals:**

Administrative Claims	<u>\$2,000.00</u>
Arrearage Claims	<u>\$0.00</u>
Secured Claims	<u>\$26,134.00</u>
Priority Claims	<u>\$3,327.50</u>
Unsecured Claims	<u>\$75,325.33</u>
Cure Claims	<u>\$0.00</u>

## H. Supplemental Plan Provisions

(a) MOTION TO AVOID LIENS UNDER 11 U.S.C. § 522(f)

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien, i.e. judicial, nonpurchase-money security interest, etc.)

Creditor / Property subject to lien	Amount of Lien to be Avoided	Remarks
Kwik Cash Television	\$934.55	
Service Loans Television	\$628.00	

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Continuation Sheet # 5

**IV. General Information**

**NOTICE: Local Rule 3002 provides, in part:**

*"Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor's Attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case."*

Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. The deadline for the filing of objections to confirmation is ten days prior to the confirmation hearing.

Respectfully submitted this date: **11/03/2010**\_\_\_\_\_.

**/s/ Michael John Turner**

Michael John Turner  
170 Lost Cove Drive  
Spicewood, TX 78669  
(Debtor)

**/s/ Ada Turner**

Ada Turner  
170 Lost Cove Drive  
Spicewood, TX 78669  
(Joint Debtor)

**/s/ Kimberly L. Nash**

Kimberly L. Nash  
609 Castle Ridge Road  
Suite 220  
Austin, TX 78746  
Phone: (512) 330-9977 / Fax: (512) 330-1686  
(Attorney for Debtor)

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**EXHIBIT "B" - VARIABLE PLAN PAYMENTS**

**PROPOSED PLAN OF REPAYMENT (VARIABLE PAYMENTS INTO THE PLAN)**

<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>
1	\$1,223.00	21	\$1,035.00	41	\$1,035.00
2	\$1,035.00	22	\$1,035.00	42	\$1,035.00
3	\$1,035.00	23	\$1,035.00	43	\$1,035.00
4	\$1,035.00	24	\$1,035.00	44	\$1,035.00
5	\$1,035.00	25	\$1,035.00	45	\$1,035.00
6	\$1,035.00	26	\$1,035.00	46	\$1,035.00
7	\$1,035.00	27	\$1,035.00	47	\$1,035.00
8	\$1,035.00	28	\$1,035.00	48	\$1,035.00
9	\$1,035.00	29	\$1,035.00	49	\$1,035.00
10	\$1,035.00	30	\$1,035.00	50	\$1,035.00
11	\$1,035.00	31	\$1,035.00	51	\$1,035.00
12	\$1,035.00	32	\$1,035.00	52	\$1,035.00
13	\$1,035.00	33	\$1,035.00	53	\$1,035.00
14	\$1,035.00	34	\$1,035.00	54	\$1,035.00
15	\$1,035.00	35	\$1,035.00	55	\$1,035.00
16	\$1,035.00	36	\$1,035.00	56	\$1,035.00
17	\$1,035.00	37	\$1,035.00	57	\$1,035.00
18	\$1,035.00	38	\$1,035.00	58	\$1,035.00
19	\$1,035.00	39	\$1,035.00	59	\$1,035.00
20	\$1,035.00	40	\$1,035.00	60	\$1,035.00

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*Joint Debtor*

CHAPTER **13**

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on November 3, 2010, a copy of the attached Chapter 13 Plan, with any attachments, was served on each party in interest listed below, by placing each copy in an envelope properly addressed, postage fully prepaid in compliance with Local Rule 9013 (g).

/s/ Kimberly L. Nash

Kimberly L. Nash  
Bar ID:24043840  
Fred E. Walker, P.C.  
609 Castle Ridge Road  
Suite 220  
Austin, TX 78746  
(512) 330-9977

5 Star Bnk  
xxxxxxx0030  
Po Box 35430  
Colorado Springs, CO 80935

Bank Of America  
xxxxxxxxx7799  
PO Box 26012 NC4-105-03-14  
Greensboro, NC 27420

Bank Of America  
3672  
Attn: Bankruptcy NC4-105-03-14  
PO Box 26012  
Greensboro, NC 27410

Albert Turner  
38327 W. Mountain View Rd  
Tonopah, AZ 85354

Bank Of America  
xxxxxxxxxxx9240  
FIA Card Services, N.A.  
1000 Somoset Drive  
DE5\*-023-03-03

Bank Of America  
Attn: Bankruptcy NC4-105-03-14  
PO Box 26012  
Greensboro, NC 27410

American Express  
xxxx xxxxx x1006  
c/o Becket and Lee LLP  
PO Box 3001  
Malvern, PA 19355

Bank Of America  
c/o FIA Card Servies  
Becket and Lee LLP  
POB 3001  
Malvern, PA 19355-0701

Becky Cantu  
3159 Nye Peterson Road  
Robstown, Texas 78380

American General Finance  
xxxxxxxxxxx8011  
8440 Burnett Rd, Ste. 116  
Austin, TX 78757

Bank Of America  
xxxxxxxxxxx7841  
1000 Somoset Drive  
DE5-023-03-03  
Newark, DE 19713

Capital One  
xxxxxxx0100  
C/O American Infosource  
PO Box 54529  
Oklahoma City, OK 73154



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*Joint Debtor*

CHAPTER **13**

**CERTIFICATE OF SERVICE**

(Continuation Sheet #1)

Centralized Insolvency Operations PO Box 21126 Philadelphia, PA 19114	Gemb / Walmart xxxxxxx8463 Po Box 981400 El Paso, TX 79998	Randolph Brook FCU xxxxxxxxxxx1766 P O Box 2097 Universal City, TX 78148
Chase xxxxxxxxxxx6514 P.o. Box 15298 Wilmington, DE 19850	H-H P.O. Box 40 Spicewood Texas 78669	Randolph Brook FCU xxxxxxxxxxx7819 P O Box 2097 Universal City, TX 78148
Chase / Pier 1 xxxxxxx4272 Attn: Recovery PO Box 15298 Wilmington, DE 19850	Hsbc / Furniture Row xxxxxxxxxxx1267 P O Box 703 Wood Dale, IL 60191	Randolph Brook FCU xxxxxxxxxxx0908 PO Box 2097 Universal City, TX 78148
Consumer Credit Counseling Service xxx-xx-8414 8737 King George Drive Dallas, TX 75235	Hsbc Best Buy xxxxxxxxxxx5534 c/o Bass & Associates, P.C. 3936 E. Ft. Lowell, Suite 200 Tucson, AZ 85712	Sams Club xxxxxxxxxxx1414 Attention: Bankruptcy Department PO Box 105968 Atlanta, GA 30353
Deborah B. Langehennig Chapter 13 Trustee 3801 Capital of TX Hwy. So. Ste. 320 Austin, TX 78704	Internal Revenue Service xxx-xx-8414 PO Box 21126 Philadelphia, PA 19114	Security State Bank xxxxiple 201 W Main St Fredericksburg, TX 78624
GEMB / Discount Tire xxxxxxxxxxx4467 Attention: Bankruptcy PO Box 103106 Roswell, GA 30076	Kwik Cash xxx-xx-8414 3851 Airport Blvd., Ste. 104A Austin, TX 78722	Security State Bank xxxxxxxxx4318 201 W Main St Fredericksburg, TX 78624
Gemb / PayPal xxxxxxxxxxx6933 Attention: Bankruptcy PO Box 103104 Roswell, GA 30076	Michael John Turner PO Box 504 Spicewood, TX 78669	Service Loans xxx5155 3851 Airport Blvd, Ste 111 Austin, TX 78722

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*Debtor*

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Ada Turner  
*Joint Debtor*

CHAPTER 13

**CERTIFICATE OF SERVICE**

(Continuation Sheet #2)

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SOCIAL SECURITY  
104 PARKVIEW DR  
GEORGETOWN, TX 78626

U.S. Attorney  
601 N.W. Loop 410, Suite 600  
San Antonio, TX 78216

United Heritage Cu  
xxxxxx0001  
c/o Kris Lopez  
PO Box 1648  
Austin, TX 78767-1648

United Heritage CU  
xxxxxx0000  
12208 N Mopac Expressway  
Austin, TX 78758

Velocity Credit Union  
xxxxxx0302  
610 E 11th St  
Austin, TX 78701